

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 313, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 25-2.5-1-2.3 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2001]: **Sec. 2.3. "Acupuncturist" means an**
6 **individual to whom a license to practice acupuncture in Indiana**
7 **has been issued under IC 25-2.5-2."**
8 Page 2, between lines 7 and 8, begin a new paragraph and insert:
9 "**(d) The professional license of an individual that is issued**
10 **under subsection (b) shall be suspended if the individual's license**
11 **described under subsection (b)(1), (b)(2), or (b)(3) is suspended.**
12 **(e) The professional license of an individual that is issued under**
13 **subsection (b) shall be revoked if the individual's license described**
14 **under subsection (b)(1), (b)(2), or (b)(3) is revoked.**
15 SECTION 3. IC 25-2.5-2-6, AS ADDED BY P.L.265-1999,
16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2001]: Sec. 6. The board may deny, suspend, or revoke a
18 license, require remedial education, or issue a letter of reprimand, if an
19 applicant or licensed acupuncturist does any of the following:
20 (1) Engages in false or fraudulent conduct that demonstrates an

- 1 unfitness to practice acupuncture, including:
- 2 (A) making a misrepresentation in connection with an
- 3 application for a license or an investigation by the board;
- 4 (B) attempting to collect fees for services that were not
- 5 performed;
- 6 (C) false advertising, including guaranteeing that a cure will
- 7 result from an acupuncture treatment; or
- 8 (D) dividing, or agreeing to divide, a fee for acupuncture
- 9 services with another person for referring the patient.
- 10 (2) Fails to exercise proper control over the acupuncturist's
- 11 practice by:
- 12 (A) aiding an unlicensed person in practicing acupuncture;
- 13 (B) delegating professional responsibilities to a person the
- 14 acupuncturist knows or should know is not qualified to
- 15 perform; or
- 16 (C) insufficiently supervising unlicensed personnel working
- 17 with the acupuncturist in the practice.
- 18 (3) Fails to maintain records in a proper manner by:
- 19 (A) failing to keep written records describing the course of
- 20 treatment for each patient;
- 21 (B) refusing to provide upon request patient records that have
- 22 been prepared for or paid for by the patient; or
- 23 (C) revealing personally identifiable information about a
- 24 patient, without the patient's consent, unless otherwise allowed
- 25 by law.
- 26 (4) Fails to exercise proper care of a patient, including:
- 27 (A) abandoning or neglecting a patient without making
- 28 reasonable arrangements for the continuation of care; or
- 29 (B) exercising or attempting to exercise undue influence
- 30 within the relationship between the acupuncturist and the
- 31 patient by making sexual advances or requests for sexual
- 32 activity or by making submission to sexual conduct a condition
- 33 of treatment.
- 34 (5) Displays ~~habitual~~ substance abuse or mental impairment to the
- 35 degree that it interferes with the ability to provide safe and
- 36 effective treatment.
- 37 (6) Is convicted, pleads guilty, or pleads no contest to a crime that
- 38 demonstrates an unfitness to practice acupuncture.

(7) Fails, in a negligent manner, to practice acupuncture with the level of skill recognized within the profession as acceptable under the circumstances.

(8) Violates willfully any provision of this article or rule of the board.

(9) Has had a license denied, suspended, or revoked in another jurisdiction for a reason that would be grounds for denial, suspension, or revocation of a license under this article.

SECTION 4. IC 25-2.5-3-3, AS ADDED BY P.L.265-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

(b) Subject to subsection (c), it is unlawful for a licensed acupuncturist, other than a chiropractor licensed under IC 25-10, podiatrist licensed under IC 25-29, or dentist licensed under IC 25-14, to practice acupuncture on a patient unless the acupuncturist obtains:

(1) **a** written letter of referral; **and**

(2) **either:**

(A) **a** written diagnosis of the patient; or

~~(B)~~ (B) written documentation relating to the condition for which the patient receives acupuncture;

within the twelve (12) months immediately preceding the date of acupuncture treatment.

(c) An acupuncturist licensed under this article may practice auricular acupuncture on a patient for the purpose of treating alcoholism, substance abuse, or chemical dependency without a written letter of referral or written diagnosis from a physician licensed under IC 25-22.5.

(d) If a licensed acupuncturist practices acupuncture on a patient after having obtained a written letter of referral or written diagnosis of the patient from a physician licensed under IC 25-22.5 as described in subsection (b), the physician is immune from civil liability relating to the patient's or acupuncturist's use of that diagnosis or referral except

- 1 for acts or omissions of the physician that amount to gross negligence
- 2 or willful or wanton misconduct.".
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 313 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

Miller

Chairperson